

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 19-2142

Keith Edward Walker

Petitioner - Appellant

v.

Ronda Pash, Warden

Respondent - Appellee

Appeal from U.S. District Court for the Western District of Missouri - Kansas City
(4:18-cv-00943-ODS)

JUDGMENT

Before COLLOTON, STRAS, and KOBES, Circuit Judges.

This appeal comes before the court on appellant's application for a certificate of appealability. The court has carefully reviewed the original file of the district court, and the application for a certificate of appealability is denied. The appeal is dismissed.

All pending motions are denied as moot.

September 25, 2019

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

APPENDIX A

THE SHOW CAUSE RESPONSE CONTAINS FALSE INFORMATION REGARDING SAME A FRAUDULENT (ILLEGAL) DOCUMENT, A DOCUMENT WHICH BY CONSTRUCTION DOES NOT APPROPRIATELY SHOW CAUSE WHY THE HABEAS SHOULD NOT BE GRANTED. BEING THAT IS TRUE, THE STATE THEREBY WAIVES ITS OPPORTUNITY TO A DEFENSE FROM THE CLAIMS ASSERTED IN THE GROUNDS FOR RELIEF CONTAINED IN THE HABEAS CORPUS PETITION, F.R.C.P. THE RESPONSE MUST BE STRICKEN FROM THE LEGAL FILE.
SEE NOTE B: THE FINAL ORDER SHOULD BE, NOTE C: THE PANEL ORDER SHOULD BE STRICKEN.

[AS STATED ABOVE THE CONVICTION WAS AFFIRMED BY THE CLERK, MO. APPEALS COURT ON DECEMBER 21, 2018, THE MANDATE DATE. SEE THE MANDATE DATE'S DATE LOCATED IN THE ORIGINAL FILE.

JUDGE SMITH CONTINUES HIS MISREPRESENTATION WHEN HE WRITES, "PETITIONER SIGNED HIS PETITION ELEVEN DAYS LATE, ...". FACT IS, SINCE THE ACTUAL MANDATE DATE, (THE LEGAL AUTHORITY, WAS DEC. 21, 2016, PETITION STILL HAD SEVERAL DAYS LEFT TO SUBMIT HIS PETITION BEFORE THE ONE YEAR PERIOD EXPIRED.

THE EIGHTH CIRCUIT PANEL TASKED TO HEAR THE MATTER, CIRCUIT JUSTICES COLLTON, STRAS, AND LOBES, ADOPTS DISTRICT JUDGE SMITH FRAUDULENT ADJUDICATION WHICH ADOPTS ASS. ATT. GEN. MYERS' FRAUDULENT SHOW CAUSE RESPONSE.

THE PANEL'S JUDGMENT STATES, "THE COURT HAS REVIEWED THE ORIGINAL FILE", AND, "THE APPLICATION FOR A CERTIFICATE OF APPEALABILITY IS DENIED. THE APPEAL IS DISMISSED". BY THAT, EVIDENCE SHOWS THE PANEL, AFTER REVIEWING PETITIONER'S RESPONSE TO THE FRAUDULENT SHOW CAUSE RESPONSE, AFTER REVIEWING THE MANDATE DATE, AFTER REVIEWING FACTUAL SUPPORTING EXHIBITS AND ARGUMENTS BY PETITIONER, AND AFTER REVIEWING PETITIONER'S APPELLATE DOCUMENTS WHICH DETAIL THE LAW CONFLICTING, FRAUDULENT FINAL ORDER BY JUDGE SMITH, DISMISSED PETITIONER'S APPELLANT'S APPEAL.

THAT DISMISSAL IS THE VERY DEFINITION OF RULE 3(3). FRAUD, MISREPRESENTATION OR MISCONDUCT.

Relief Sought.
THE MISSOURI ATTORNEY GENERAL'S SHOW CAUSE RESPONSE CONTAIN KNOWN FALSE INFORMATION REGARDING...

DISTRICT JUDGE ORTRIE SMITH PUBLISHED A FINAL ORDER WHICH CONFLICTS HIS PAST CASES, IN PAST THOSE CASES, HE SUPPORTS THE LAW WHEN ACKNOWLEDGING THE MANDATE DATE AS THE TOLLING TIME INITIATOR, BUT IGNORE THE LAW IN PETITIONER'S CASE AS HE FRAUDULENTLY SAYS THE TOLLING TIME INITIATES WHEN THE APPELLATE COURT PUBLISHES THE OPINION. JUDGE SMITH'S FINAL ORDER IS FRAUDULENT DOCUMENT AND MUST BE STRICKEN FROM THE LEGAL FILE.

THE EIGHTH CIRCUIT PANEL ASSIGNED TO ADJUDICATE PETITIONER'S APPEAL PUBLISHED A FRAUDULENT JUDGMENT WHICH REPRESENTS AND SUPPORTS A KNOWN FRAUDULENT ORIGINAL FILE. CONSTRUCTED BY DISTRICT JUDGE ORTRIE SMITH AND THE MISSOURI ATTORNEY GENERAL. THE JUDGMENT MUST BE STRICKEN FROM THE RECORD.

AS A RESULT OF THE FRAUDULENT ACTS BY JUDICIAL OFFICIALS ACTING UNDER COLOR OF STATE LAW AS ILLUSTRATED ABOVE AND IN THE PETITIONS FOR PAINED REHEARING (REHEARING EN BANC, THE TERMS OF JUSTICE NECESSITATES THAT THE FRAUDULENT PORTION WALKING UP THE LEGAL FILE AS DISCUSSED ABOVE MUST BE REMOVED AND NOT ALLOWED TO BE PUBLISHED IN LEGAL JOURNALS WHERE LITIGANT WOULD RELY ON IT AS A LEGAL CASE PRECEDENT. IN ADDITION, THE HABEAS CORPUS MUST BE GRANTED, PETITIONER HAS SUFFERED IRREPARABLY AS A RESULT OF THE CONSTITUTIONAL VIOLATIONS KNOWING COMMITTED BY JUDICIAL OFFICIALS OPERATING IN OFFICIAL CAPACITIES.

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

KEITH EDWARD WALKER,)	
)	
Petitioner,)	
)	
vs.)	Case No. 18-0943-CV-W-ODS-P
)	
RONDA PASH,)	
)	
Respondent.)	

ORDER DISMISSING CASE

Petitioner seeks habeas corpus relief pursuant to 28 U.S.C. § 2254 from his convictions in the Circuit Court of Jackson County, Missouri, for four counts of forcible sodomy, and one count each of forcible rape and second-degree child molestation.

Respondent has moved to dismiss on the basis that the petition was untimely filed. "A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from . . . the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review" 28 U.S.C. § 2244(d)(1)(A).

The judgment against Petitioner became final on November 16, 2016 (the date on which the Missouri Court of Appeals affirmed his convictions (November 1, 2016), plus the 15 days during which Petitioner could have sought review by the Missouri Supreme Court).¹ Doc. 11-2 (opinion); *Gonzalez v. Thaler*, 565 U.S. 134,
SEE REVERSE SIDE.

¹Petitioner faults appellate counsel for failing to seek review by the Missouri Supreme Court, Doc. 22, pp. 3-4 (reply),

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154 (2012) ("with respect to a state prisoner who does not seek review in a State's highest court, the judgment becomes final under § 2244(d)(1)(A) when the time for seeking such review expires").

"The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation" § 2244(d)(2). Petitioner filed a motion for post-conviction relief pursuant to Missouri Supreme Court Rule 29.15 in the Circuit Court of Jackson County on February 1, 2017, Doc. 11-6, p. 5 (docket report). This litigation remained pending until December 11, 2017, when the Circuit Court denied relief. *Id.* at 2. The period of limitation is not tolled by Petitioner's untimely appeal from the denial of post-conviction relief. *See id.* at 1.

Applying the law and the facts set out above, the one-year period of limitation began to run on November 16, 2016 (15 days after the Missouri Court of Appeals affirmed Petitioner's convictions), stopped running on February 1, 2017 (when Petitioner filed his Rule 29.15 motion for post-conviction relief), and began to run again on January 22, 2018 (when Petitioner's deadline for timely filing an appeal from the denial of post-conviction relief passed), making Petitioner's deadline for filing this case

but any such failure does not amount to a constitutional violation. *See Ross v. Moffitt*, 417 U.S. 600, 610 (1974) (no constitutional right to counsel to pursue discretionary state appeals).

November 8, 2018. Petitioner signed his petition eleven days late, on November 19, 2018. Doc. 1, p. 13 (petition).²

Accordingly, Petitioner's motions to strike and to disqualify the undersigned,³ and for sanctions and other relief (Docs. 27-30) are denied, and this case is dismissed as having been untimely filed. Finally, the Court declines to issue a certificate of appealability. See 28 U.S.C. § 2253(c)(2) (certificate of appealability may be issued "only if [Petitioner] has made a substantial showing of the denial of a constitutional right"). The Clerk of the Court shall enter judgment accordingly.

So ORDERED.

/s/ Ortrise D. Smith
ORTRIE D. SMITH
UNITED STATES DISTRICT JUDGE

Kansas City, Missouri,

Dated: May 15, 2019.

²Equitable tolling provides an "exceedingly narrow window of relief," *Deroo v. United States*, 709 F.3d 1242, 1246 (8th Cir. 2013) (citation omitted), but the Court finds no basis for equitable tolling of the period of limitation in this case. See Doc. 22 (reply).

³Petitioner misunderstands the Court's use of text orders, and he has set forth no basis for disqualification. See Doc. 29 (motion for disqualification); 28 U.S.C. § 455 (criteria for disqualification).

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ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

October 31, 2019

JAN. 29, 2020

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

APPENDIX C

**Additional material
from this filing is
available in the
Clerk's Office.**